

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSEPH CRUM,	:	
	:	Case No. 4:06-CV-2478
Plaintiff	:	
	:	
v.	:	(Judge McClure)
	:	
CAMERON LINDSAY, et al,	:	(Magistrate Judge Blewitt)
	:	
Defendants.	:	

ORDER

May 29, 2007

BACKGROUND:

Plaintiff is a former inmate of the United States Penitentiary at Canaan (“USP-Canaan”), and is a present inmate at FCI-Williamsburg, South Carolina. On December 28, 2006, plaintiff filed this instant Bivens¹ action, and on April 23, 2007 he filed an amended complaint. Plaintiff alleges a First Amendment denial of access to courts claim and a First Amendment retaliation claim against the defendants. Specifically, plaintiff alleges that defendants Cameron Lindsay, Al Farley, and Corrections Officer Bond interfered with his legal mail, which resulted

¹ Bivens is the shorthand given to claims made against a federal agent of violations of a federal right, including constitutional rights. Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

in plaintiff's missing an important court deadline, and he also alleges that the three defendants have retaliated against him because he has filed civil complaints against Bureau of Prison staff. He seeks \$250,000 in compensatory damages resulting in part from emotional injury, and \$75,000 from each defendant in punitive damages.

This matter was initially referred to United States Magistrate Judge Thomas M. Blewitt.

On May 2, 2007, the magistrate judge issued his thorough fifteen-page report and recommendation. The magistrate judge recommends that the claims against defendant G. Feathers be dismissed because plaintiff fails to allege any facts that suggest Feathers was personally involved in the events upon which plaintiff's claims are based. He also recommends that we strike plaintiff's request for specific monetary damages pursuant to Local Rule 8.1, that we dismiss any potential claim for emotional injuries because plaintiff fails to allege he suffered any requisite physical injuries, and that we dismiss any potential Fifth Amendment Due Process claim. The magistrate judge recommends that plaintiff's First Amendment claims against the remaining defendants should proceed.

Plaintiff has not objected to any of these recommendations.

DISCUSSION:

A district court reviews de novo those portions of a magistrate judge's report

and recommendation to which a party objects. L.R. 72.3. The court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id.

We will adopt the magistrate judge’s report and recommendation in full. We agree that the plaintiff fails to allege a claim against defendant Feathers, and that he also fails to allege a Fifth Amendment Due Process claim. Further, his specific monetary damage requests are improper, and so is his claim for damages for emotional injury. Plaintiff’s First Amendment claims against the remaining defendants, however, should proceed. For purposes of judicial economy, we will not rehash the sound reasoning used by the magistrate judge in making his recommendations.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. United States Magistrate Judge Thomas M. Blewitt’s Report and Recommendation is adopted in full. (Rec. Doc. No. 19.)
2. Plaintiff’s claims against defendant G. Feathers are dismissed.
3. Plaintiff’s specific monetary damage requests are dismissed.

4. Plaintiff's request for damages from emotional injury is dismissed.
5. Plaintiff's First Amendment denial of access to the courts and retaliation claims against the remaining defendants may continue.
6. The case is remanded to the magistrate judge for further proceedings.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge